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served with summons. *Held*, that unless the holder of the judgment had been guilty of fraud the action could not be maintained. Wiley, J., *dissenting*.

This decision is opposed to the prevailing view. *Black on Judgments*, sec. 377; *Freeman on Judgments*, sec. 495; *Ridgeway v. Bank*, 11 Humph. (Tenn.) 523; *Kibbe v. Benson*, 84 U. S. 629. According to these authorities the defendant may have relief whenever he has not been guilty of any fault. Such a proceeding is to be regarded as a direct attack upon the judgment. *Cotterall v. Koon*, 151 Ind. 182. The only Indiana case at all similar, *Nealis v. Dick*, 72 Ind. 378, in which it was held that because the prevailing party was guilty of fraud the judgment ought to be set aside. The principal case is, however, not unsupported. *Walker v. Robbins*, 55 U. S. 584; *Knox City v. Harshman*, 133 U. S. 152; *Taylor v. Lewis*, 19 Am. Dec. 135; the doctrine of these cases being based upon public policy.

MUSICAL COMPOSITIONS—COPYRIGHT—IMITATION.—*BLOOM v. NIXON*, 125 FED. 977.—Plaintiffs were owners of a copyrighted song which was rendered during the performance of a musical comedy by an actress. *Held*, that an imitation of the actress while singing such song, by another actress, in which she attempted to mimic the gestures of the original actress, and used only a portion of the song, was not within the statute prohibiting the performance, without the consent of the proprietor, of any dramatic or musical composition for which a copyright had been obtained.

The case proceeds upon the theory that it was the gestures which were represented through the medium of the song and these were not protected by the copyright. We find no cases in which this precise question has been considered. In the case of *Martinetti v. Maguire*, 1 Abb. (U. S.) 356, a bill to enjoin the reproduction of spectacular effects was dismissed, but questions of morality were also involved. The general rule is that any use of the original production, other than by multiplying it, as by public recitations, does not constitute an infringement of a copyright. *High on Injunctions*, sec. 1017.

NATURALIZATION—REQUIREMENT OF STATE STATUTE—PERJURY IN STATE COURT—JURISDICTION OF FEDERAL COURT.—*UNITED STATES v. SEVERINO*, 125 FED. 949.—In addition to the requirements of the United States law relative to naturalization, a State passed an act providing for the filing of a petition, accompanied by an affidavit of a citizen. *Held*, that perjury committed in making this affidavit was not punishable in the federal courts.

In New York it has been declared that a State court, acting under the naturalization laws of the United States, acts as the agent of the federal government and has no jurisdiction to punish criminal offenses against the United States, those being exclusively within the jurisdiction of the federal courts. *In re Ramsden*, 13 How. Prac. 429. In such other courts as have considered the question, it was held that false swearing, in naturalization proceedings, in State courts, is perjury at common law, and may be punished by the State as well as by the federal courts. *Comm. v. Fuller*, 8 Metc. (Mass.) 313; *Sutton v. State*, 9 Ohio 133. The principal case carries the latter rule one step farther in giving the State courts exclusive jurisdiction to punish perjury committed where, although acting in naturalization proceedings, they are acting pursuant to a State law.